

1 ELAINE M. SEID (Bar No. 72588)
2 McPHARLIN, SPRINKLES
3 & THOMAS LLP
4 10 Almaden Blvd, Suite 1460
5 San Jose, California 95113
6 Telephone (408) 293-1900
7 Facsimile (408) 293-1999

8 Practice Administrator for
9 The Law Offices of Charles E. Logan

10 **UNITED STATES BANKRUPTCY COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN JOSE DIVISION**

13 In re TELEPATH CORPORATION) Bankruptcy No. 03-56788-ASW11
14 Debtor.) Chapter 11
15)
16) **Hearing:**
17) Date: 8/31/2009
18) Time: 2:15 p.m.
19) Judge: Hon. Arthur S. Weissbrodt
20)

21 **JOINT STATUS CONFERENCE STATEMENT**
22 **REGARDING APPLICATION FOR FINAL COMPENSATION**
23 **OF PROFESSIONALS FOR ESTATE**

24 This Joint Status Conference Statement Regarding Application for Final
25 Compensation of Professionals for Estate is submitted by the Law Offices of Charles
26 E. Logan ("Logan Firm.")¹, the Siress Group ("Siress") and the U.S. Trustee. Scott
27 Goodsell ("Goodsell"), unable to agree to this statement, is filing his own status
28 conference statement.

A. Factual Background

The above captioned voluntary Chapter 11 case was filed on October 20, 2003

¹ Elaine M. Seid of McPharlin Sprinkles & Thomas, LLP is the Practice Administrator for the Logan Firm and has filed its application for final compensation.

1 with the debtor represented by the Logan Firm. The debtor's employment of The
2 Siress as its accountant was approved during or about June 2005. Mr. Logan died on
3 September 12, 2008. Prior to his death the Logan Firm prepared a draft plan and
4 disclosure statement that was not filed prior to Mr. Logan's death. On or about
5 January 5, 2009, debtor's employment of Scott Goodsell ("Goodsell") as its new
6 attorney was approved. Goodsell filed the debtor's plan and disclosure statement on
7 January 12, 2009 and confirmed the plan on March 30, 2009.

8 Pending before the Court are the final fee applications of the three
9 professionals, Goodsell, Siress and the Logan Firm. At the prior hearing on Goodsell's
10 application for compensation the Logan Firm and Siress were directed to file their final
11 fee applications so the Court could considered these together. The Court further
12 directed the professionals to confer and file this joint status conference prior to the next
13 Court hearing.

14 **B. Professionals Conference Call**

15 All three professionals have filed their respective final fee applications. A
16 conference call was conducted on August 20, 2009 with the three professionals and
17 the U.S. Trustee. The following is a summary of the interim fee and final fee
18 applications, the amounts approved and the amounts remaining unpaid.

	Interim Fees Approved	Fees Paid	% Approved Fees paid	Approved Remaining Unpaid	Final Requesting Approval	Total Fees if all Requested Fees Are Approved
Goodsell	20,000	16,750	84%	3,250	25,119	45,119
Siress	192,589	164,939	86%	19,677	7,126	199,715
Logan Firm	-0-	33,866	N/A	N/A-	149,067	182,933
	212,589	215,555		22,927	181,312	427,767

27 **C. Objections to Fee Applications**

28 It was agreed the deadline for objecting to the pending fee applications is

1 August 26, 2009. The U.S. Trustee has already filed an objection to Goodsell's fee
2 application that remains pending. Goodsell advised the debtor will file objections to the
3 fee applications of Siress and the Logan Firm. Siress and the Logan Firm may file
4 objections or comments to Goodsell's fee application.

5 **D. Payment of Fees.**

6 The Logan Firm and Siress claim they were not consulted prior to confirmation
7 of the plan and have not agreed to deferred payment of their approved professional
8 compensation that are administrative expenses entitled to be paid upon the effective
9 date, unless another treatment is agreed to, under 11U.S.C. §1129 (a)(9). Goodsell
10 claims, based upon a draft projection of scheduled of payment plan found in the client
11 files received from the Logan Firm, the Logan Firm and Siress had agreed to the
12 deferred payments reflected on the schedule. Siress claims the schedule was a
13 discussion draft only and no agreements had been made.
14
15

16 Siress continues to provide accounting services to debtor. Upon her discussion
17 with Aaron Ettinger, principal of the debtor, Siress has indicated the debtor can afford
18 plan payments of \$9,000 per month. Goodsell stated he had not confirmed with the
19 debtor its ability to make these payments.
20

21 Goodsell has stated the confirmed plan requires debtor to deposit \$2,300 per
22 month into an account from which quarterly pro rata distributions are to be made to
23 creditors until creditors have received 25% of their allowed claim.

24 Thus it appears debtor could possibly pay \$6,700 per month towards approved
25 professional fees. Goodsell, Siress and the Logan Firm disagree on the allocation of
26 payment towards approved fees.
27
28

1 Goodsell advocates pro rata payments based upon total approved fees. Siress
2 advocates pro rata payments based upon unpaid approved fees. Goodsell's and
3 Siress' respective positions provide each to receive larger allocations in the early
4 months. The Logan Firm advocates a fair allocation with it receiving initial distributions
5 in amounts similar to those paid to Goodsell and Siress and recognizes payment of its
6 unpaid fees will take longer as its unpaid fees are substantially larger.

8 **E. Recommendations**

9 As formal written objections to the fee applications have not yet been filed it is
10 not possible for the professionals and the U.S. Trustee to discuss or address the
11 objections in this Joint Status Conference Statement. The Logan Firm, Siress and the
12 U.S. Trustee recommend the following procedures going forward:

- 13 1. Objections to Fee Applications filed by **August 26, 2009**.
- 14 2. Status Conference on **August 31, 2009 at 2:15 p.m.** (currently set)
- 15 3. A deadline set for filing of Response to Objections, if any.
- 16 4. A date set by which time the professionals and U.S. Trustee must confer
17 to discuss whether any objections can be resolved.
- 18 5. A further hearing be set to consider the final fee applications.

19
20 Dated: August 24, 2009

McPharlin Sprinkles & Thomas, LLP

21
22 Elaine M. Seid

23 Dated: August 24, 2009


Jena Siress-McCelleis
The Siress Group

25 Dated: August 24, 2009

26 Nanette Dumas
27 Attorney for United States Trustee
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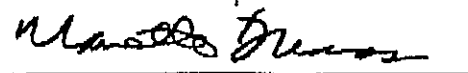
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